



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTON  
ATTORNEY GENERAL

November 2, 1990

Ms. Leah A. Curtis  
Assistant Criminal District  
Attorney - Civil Section  
300 Dolorosa, Suite 4049  
San Antonio, Texas 78205-3030

OR90-524

Dear Ms. Curtis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10572.

The Bexar County Sheriff's Office received an open records request for "all personnel records and files" on a named deputy sheriff. You contend that the requested information comes under the protection of section 3(a)(3) of the Open Records Act.

We initially note that section 7 of the Open Records Act provides:

If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten calendar days, after receiving a written request must request a decision from the attorney general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information.

V.T.C.S. art. 6252-17a, § 7(a) (emphasis added).

The Bexar County Sheriff's Office received the open records request on August 22, 1990. You sought an open records decision from this office on September 4, 1990. Because more than ten calendar days elapsed before you

requested an opinion from this office, the requested information is presumed to be public. Hancock v. State Bd. of Ins., No. 3-89-252-CV (Tex. App. - Austin 1990, n.w.h.) (not yet reported).

We note, however, that some of the records submitted to this office consist of information deemed confidential by statute, i.e. photograph of police officers, see V.T.C.S. art. 6252-17a, § 19, medical records prepared by a physician, see V.T.C.S. art. 4495b, § 5.08(b), and reports of psychological examinations. See Gov't Code § 415.057(b). Because the release of confidential information could impair the rights of third parties and because its improper release constitutes a misdemeanor, see V.T.C.S. art. 6252-17a, § 10(e), you may withhold these types of information. The remaining portions of the documents submitted to this office must, however, be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-524.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/RWP/le

Ref.: ID# 10572

Enclosures: Marked documents

cc: William F. McQuillen  
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